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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,528	12/27/2004	Uwe Botlicher	821-65	2559
7590 Dilworth & Barrese 333 Earle Ovington Boulevard Uniondale, NY 11553			EXAMINER NGUYEN, PHONG H	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 05/29/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,528

Applicant(s)

BOTTCHER, UWE

Examiner

PHONG H. NGUYEN

Art Unit

3724

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-32 is/are pending in the application.
- 4a) Of the above claim(s) 21-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-20 and 29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/88)
Paper No(s)/Mail Date 02/28/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 21-28 are objected to because of the following informalities: the status identifier of the claims should be "withdrawn" but not "previously presented".

Appropriate correction is required.

Specification

2. The specification is objected to under 37 CFR 1.71 because it does not describe how the tension load in claim 11 is measured.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not describe how the tension load is measured.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 6, 10 and 15 recite the limitation "the apparatus" and "the clamping member (22)" throughout the claim body. There is insufficient antecedent basis for this limitation in the claims.

Claim 5 recites the limitation "said movable clamping member" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "it" and "said clamping location" in lines 1 and 2 of paragraph 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recite the limitation "the second clamp means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 3, 5-10, 13-17 and 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Takimoto et al. (5,395,101), hereinafter Takimoto.

Regarding claims 3, 6, 13, 14, 15, 29, 30, Takimoto teaches an arrangement capable of being used for clamping a thin rod of glass comprising a first clamping means 1 having a first clamping member (1c) with a V-shaped clamping face (1b) and a second clamping member 2 having a flat opposing clamp face for retaining the rod in the groove, wherein the first clamping member is movably arranged with respect to a framework (inherently in the system), a driving means (pneumatic system) and a guide (the block in Fig. 15 that holds element 2a).

See Figs. 6, 7 and 15.

Regarding claim 5, a block-like piece 2a is best seen in Fig. 15.

Regarding claim 7-9, two members 1 having inclined surfaces and a means 14a for moving members 1 laterally towards a rod for clamping it in a second position is best seen in Figs. 6-8 and 11.

Regarding claims 10, 31 and 32, Takimoto teaches an arrangement capable of being used for clamping a thin rod of glass comprising a first clamping means 1 having a first clamping member (1c) with a V-shaped clamping face (1b) and a second clamping member 2 having a flat opposing clamp face for retaining the rod in the groove, wherein the first clamping member is movably arranged with respect to a framework (inherently in the system), a driving means (pneumatic system) and a second means 9 for clamping a rod in a second clamping location.

See Figs. 6, 7 and 15.

Regarding claims 16 and 17, the second clamping means 9 is best seen in Fig. 15.

9. Claims 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by

Hattori et al. (6,668,128), hereinafter Hattori.

Regarding claim 15, Hattori teaches an arrangement capable of being used for clamping a thin rod of glass comprising a first clamping means having a first clamping member (2b) with a V-shaped clamping face (1b) and a second clamping member 7 having a flat opposing clamp face for retaining the rod in the groove, wherein the first clamping member is movably arranged with respect to a framework (inherently in the system). See Figs. 1A, 1B and 5B.

Regarding claim 18, a blade 17 is best seen in Fig. 3.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takimoto et al. (5,395,101), hereinafter Takimoto.

Takimoto teaches the invention substantially as claimed except for the guide having a slot and two walls.

At the time the invention was made, it would have been obvious to one skilled in the art to change the circular hole of the guide to a rectangular or square hole since such practice is routine skill in the art and it does not destroy the function of the guide.

12. Claims 19 and 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori et al. (6,668,128), hereinafter Hattori.

Hattori teaches the invention substantially as claimed except for the use of a piezo-electric blade.

The use of piezo-electric blades is well known in the art as evidenced in page 12 of the applicant's disclosure. It is to be noted that selecting appropriate frequency for the cutting blade is experimental but not inventive concept.

Therefore, it would have been obvious to use a piezo-electric blade for cutting a rod since piezo-electric blades are well known in the art.

Examiner's Notice

13. It is to be noted that due to typographical error, claims 3-6, 10-12 and 15-28 were put in the allowance box of the Office action summary dated 10/26/2007. Claims 3-6, 10-12 and 15-28 are a subject of restriction requirement and are not indicated allowable in the Detailed action section of Office actions dated 05/23/2007 and 10/26/2007. Due to the examiner's mistake, claims 3-6, 10-12 and 15-20 are now rejoined with claims 7-9, 13 and 14. Claims 21-28 are still a subject of restriction requirement since they are method claims.

Response to Arguments

14. Since the applicant does not provide any arguments with respect to claims 1, 2, 7-9, 13 and 14, the examiner does not have any comment in this section.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **PHONG H. NGUYEN** whose telephone number is (571)272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy V Eley/
Primary Examiner, Art Unit 3724

/P. H. N./
Examiner, Art Unit 3724
May 22, 2008